

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY COLBURN, *et al.*,

Defendants.

Case No. 1:19-cr-10080-NMG

**DEFENDANT ELISABETH KIMMEL’S MOTION
FOR LEAVE TO FILE MOTION *EX PARTE* AND UNDER SEAL**

Defendant Elisabeth Kimmel respectfully moves this Court for leave to file a motion *ex parte* and under seal (“Submission”).

As grounds for the motion, Mrs. Kimmel states that she requests to file the Submission *ex parte* and under seal because it relates to a Rule 17(c) subpoena, the subject matter of which would reveal confidential trial strategy to the government. *See United States v. Diamont*, Case No. 1:05-cr-10154, ECF No. 33, slip op. at 5 (D. Mass. Nov. 22, 2005) (Dien, M.J.) (“[E]x parte proceedings are available under Rule 17(c) both based on the language of the Rule and for policy reasons.”).

WHEREFORE, Mrs. Kimmel respectfully requests that her motion to file the Submission *ex parte* and under seal be GRANTED.

Respectfully submitted,

/s/ Eóin P. Beirne

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Counsel for Elisabeth Kimmel

Date: May 27, 2021

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1

I, Eóin P. Beirne, hereby certify that counsel for Defendants did not confer with counsel for the government regarding this motion as the underlying Submission would be made *ex parte* and under seal.

/s/ Eóin P. Beirne

Eóin P. Beirne

CERTIFICATE OF SERVICE

I, Eóin P. Beirne, hereby certify that on May 27, 2021, I filed the foregoing with the United States District Court for the District of Massachusetts using the CM/ECF system and caused it to be served on all registered participants via the notice of electronic filing.

/s/ Eóin P. Beirne

Eóin P. Beirne